

# EXHIBIT A



To:	Doug Elmendorf, Dean of Harvard Kennedy School Student 1 Student 2 Student 3 Marshall Ganz, Rita E. Hauser Senior Lecturer in Leadership, Organizing, and Civil Society
From:	Allyson Kurker, External Investigator, Kurker Paget
Re:	Investigative Report: Preliminary Findings and Preliminary Recommendations
Date:	June 14, 2023

Harvard Kennedy School (“HKS” or the “School”) promotes compliance with the HKS Statement of Rights and Responsibilities (the “HKS Statement”) and the University-Wide Statement on Rights and Responsibilities (the “University Statement”) (collectively, the “Statements”) in part by investigating allegations of conduct inconsistent with HKS and University policies. The contents of this document memorialize such an investigation.

## **I. Introduction**

Student 1, Student 2, and Student 3 (the “Students”), all of whom are enrolled in the Mid-Career Master in Public Administration (MC/MPA), took Professor Marshall Ganz’s MLD-377 course, Organizing: People, Power, Change, during spring 2023. On March 29, 2023, the Louis D. Brandeis Center for Human Rights Under Law sent a letter on behalf of the Students alleging that Professor Ganz had subjected the Students to anti-Israel and antisemitic bias and discrimination on the basis of their identities as Jewish Israelis.

Upon learning of the allegations, HKS initiated an investigation pursuant to the Statements. Accordingly, HKS engaged me to determine whether Professor Ganz engaged in conduct inconsistent with HKS policies.

## **II. Investigative Procedure**

I interviewed the following individuals in connection with this investigation, all via Zoom, on the dates indicated below. I led the interviews while Lily Anna Fullam, a paralegal of my firm, took contemporaneous notes.

#### **A. Witness Interviews**

1. Student 1, HKS student, April 19 and 28, 2023.
2. Student 2, HKS student, April 20 and 25, 2023.
3. Student 3, HKS student, April 21, 2023.
4. Dan Grandone, Teaching Fellow, Organizing: People, Power, Change, April 27, 2023.
5. Marshall Ganz, Rita E. Hauser Senior Lecturer in Leadership, Organizing, and Civil Society at HKS, May 5, 2023.

#### **B. Exhibits**

I relied upon the following exhibits:

1. HKS Charge, attached as Exhibit (“Ex.”) A.
2. HKS Statement and University Statement, excerpted from HKS Faculty Handbook, attached as Ex. B.
3. MLD-377 and MLD-378 Spring 2023 Syllabus, attached as Ex. C.
4. MLD-377 Spring 2023 Course Description, attached as Ex. D.
5. HKS Wexner Israel Fellowship Description, attached as Ex. E.
6. Student 1 Organization Documents, attached as Ex. F.
7. Student 2 Email regarding Request to Register in the Course, attached as Ex. G.
8. Email Exchange between Marshall Ganz, Student 1, Student 2, and Student 3, dated March 2-3, 2023, attached as Ex. H.
9. Email Exchange between Dan Grandone, Student 1, Student 2, and Student 3, dated March 3, 2023, attached as Ex. I.
10. “Harvard Affiliates Gather at Vigil to Mourn Palestinian Lives Lost” Harvard Crimson Article, dated March 6, 2023, attached as Ex. J.
11. MLD-377 Class photo, attached as Ex. K.
12. “If not now, when? Update Your Information with the Practicing Democracy Project” Email Newsletter from Emily Lin and Marshall Ganz, dated May 12, 2023, attached as Ex. L.

13. Student 3 Final Paper and Comments, attached as Ex. M.
14. Student 1 Final Paper and Comments, attached as Ex. N.
15. Student 2 Final Paper and Comments, attached as Ex. O.
16. Email Exchange between Student 3 and Dan Grandone, dated April 8-13, 2023, attached as Ex. P.
17. Dear Colleague Letter from Office for Civil Rights Assistant Secretary, Gerald A. Reynolds, regarding the First Amendment, dated July 28, 2003, attached as Ex. Q.
18. “The Fight for Israel’s Democracy Continues” Article, *The New York Times*, dated April 1, 2023, attached as Ex. R.
19. “Israeli Public’s Commitment to Democracy Shines as the Country Turns 75” Article, *The Washington Institute*, dated April 27, 2023, attached as Ex. S.
20. “With 2022 the Deadliest Year in Israel-Palestine Conflict, Reversing Violent Trends Must Be International Priority, Middle East Coordinator Tells Security Council” United Nations Press Release, dated January 18, 2023, attached as Ex. T.
21. “Protecting Students from Discrimination Based on Shared Ancestry or Ethnic Characteristics” Fact Sheet, U.S. Department of Education *Office for Civil Rights*, dated January 2023, attached as Ex. U.
22. “Know Your Rights: Title IV and Religion” Fact Sheet, U.S. Department of Education *Office for Civil Rights*, undated, attached as Ex. V.
23. Letter from Assistant Attorney General Thomas E. Perez to Assistant Secretary for Civil Rights, The Honorable Russlynn H. Ali, regarding “Title VI and Coverage of Religiously Identifiable Groups,” dated September 8, 2010, attached as Ex. W.
24. Race, Color, or National Origin Discrimination Frequently Asked Questions, U.S. Department of Education *Office for Civil Rights*, dated May 11, 2023, attached as Ex. X.
25. Dear Colleague Letter from Assistant Secretary for Civil Rights, Russlynn H. Ali, dated October 26, 2010, attached as Ex. Y.
26. “Combating Discrimination Against Jewish Students” Fact Sheet, U.S. Department of Education *Office for Civil Rights*, undated, attached as Ex. Z.
27. The U.S. National Strategy to Counter Antisemitism, dated May 25, 2023, attached as Ex. AA.

### C. Investigative Report

This Preliminary Fact-Finding Report (the “Report”) has been shared in two stages. First, having gathered relevant evidence, on May 19, 2023, I issued a report which made preliminary findings of fact. Then, Students 1, 2, and 3, and Professor Ganz (collectively, the “Parties”) had one week to provide a written response, which was extended to May 30, 2023. Finally, having considered the Parties’ responses, I am issuing my preliminary factual findings and preliminary recommendations as to whether those factual findings reflect conduct inconsistent with HKS and Harvard University policies.

This Report is confidential and should not be shared with anyone other than legal counsel, if applicable.

### **III. Investigation Charge**

HKS charged me with conducting my review to determine:

1. Did Professor Ganz require the Students to change their statement of purpose or topic description for their class project? If so, why?
2. Did the three Students experience consequences, including harassment, directly or indirectly caused by Professor Ganz, as a result of presenting on their original topic to their small working group, including but not limited to the following allegations:
  - a. not having their project selected for presentation to the entire class on the last day of the module;
  - b. the selection of “Palestinian identity” as the topic for a fishbowl session for the entire class;
  - c. the ensuing expression of anti-Israel remarks by a student within the class, including blaming Israelis for the Palestinians’ plight, and her invitation for students and teaching staff to demonstrate Palestinian support by posing for a class picture wearing keffiyehs;
  - d. Professor Ganz’s rejection of the Israeli Students’ request to respond to the anti-Israel rhetoric and the manner of that rejection; and
  - e. any other remarks or conduct on the basis of the three Students’ Israeli national origin and Jewish identity that limited the ability of the three Students to participate fully in the class.

Ex. A.<sup>1</sup>

#### **IV. Applicable Policies**

A. HKS Statement and University Statement, attached as Ex. B.

#### **V. Preponderance of the Evidence Standard**

In a matter like this, the finder of fact must determine whether it is more likely than not that the person against whom the complaint was made (the respondent) violated an HKS or Harvard University policy. This is known as the “preponderance of the evidence” standard. Under this standard, one can only conclude that a violation occurred if the greater weight of evidence tends to show this. If, however, the weight of evidence is equally balanced on both sides, then one cannot conclude, by a preponderance, that the respondent violated a rule or policy.

When weighing evidence, I consider tangible evidence, and information that the Parties and witnesses share in their interviews. Here, I relied on objective evidence such as the Course description and syllabus, emails the Parties exchanged, the class photo, and the Students’ academic records. Objective data is particularly helpful to corroborate or refute information provided during interviews.

This is an unusual case because, to a large extent, the Parties do not dispute the material facts, although they have different interpretations of them. My acceptance of one person’s interpretation in my factual findings is the result of weighing all the credible information gathered during the course of the investigation and applying the facts to the policies; it does not necessarily mean a particular person was lying or being deceitful when sharing their views.

#### **VI. Introduction to the Course and Parties**

##### **Marshall Ganz**

Professor Marshall Ganz is the Rita T. Hauser Senior Lecturer in Leadership, Organizing, and Civil Society at HKS. He teaches courses in organizing and public narrative. In spring 2023, Professor Ganz taught the MLD-377 course titled Organizing: People, Power, Change (the “Course”). Professor Ganz identifies as Jewish.

##### **MLD-377 Course**

The Course consisted of a two-week practicum, with in-person classes on the weekends of February 24-26 and March 3-5, 2023.<sup>2</sup> In total, 116 students of diverse backgrounds and nationalities enrolled, including Student 1, Student 2, and Student 3. Eight teaching fellows

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<sup>1</sup> There was a typographical error in the original Charge. I have changed the word “requestion” to “rejection” in Question 2(a).

<sup>2</sup> The Course syllabus refers to “weekends” as Friday through Sunday, with in-person class sessions taking place on Friday afternoon, all day Saturday, and all day Sunday. Ex. C.

assisted with teaching the Course, including Dan Grandone, who was the Students' teaching fellow. Ex. C. The Course aimed to teach students how to work in leadership teams, connect with potential constituents, and ultimately design a campaign to organize for a cause. Ex. D. Professor Ganz designed the course around Rabbi Hillel's three questions: "If I am not for myself, who will be for me?"; "If I am only for myself, what am I?"; and "If not now, when?" As a result, the students' organizing focused on answering the prompts, "Who are my people, what is our challenge, and how can we turn the resources we have into the power we need to meet that challenge." Exs. C and D.

During each of the two weekends of the Course, students engaged in two-and-a-half days of in-person classes consisting of lectures, small group work, and coaching. They formed organizing teams during the first weekend, February 24-26, 2023, and were assigned a teaching fellow to advise them on their project. Throughout the week between the two weekend sessions, students were required to meet with their small organizing teams and their assigned teaching fellow, as well as with five potential constituents for their organizing project. Ex. C. Students completed a pre-course reflection paper and a final reflection paper. Exs. C and D.

Students received grades based on the following factors: class attendance (25%), the pre-course reflection paper (20%), the completion of all worksheets during the sessions (15%), and the final paper (40%). Ex. C.

## The Students

The Students met one another when enrolled in the MC/MPA program.

*Student 1* is a Wexner Israel Fellow at HKS. The fellowship supports Israeli government and public service professionals to pursue an MC/MPA, "with the goal of providing Israel's next generation of public leaders with superlative training."<sup>3</sup> Ex. E. Prior to becoming a Wexner Israel Fellow, Student 1 founded and managed a non-governmental organization named Desert Stars, that works with the Bedouin minority in Israel.<sup>4</sup> Following the completion of his degree at HKS, he intends to establish a new organization in Israel, the Kumzitz, with the goal of revolutionizing Israel's education system. Ex. F. Student 1 identifies as Jewish and Israeli.

*Student 2* served in the Israel Defense Forces (IDF) for several years prior to pursuing an MC/MPA at HKS. During his time in the IDF, Student 2 worked closely with the Prime Minister of Israel, Benjamin Netanyahu, and observed problems within Israel's structure and policies. Student 2 chose to pursue a degree at HKS to gain the leadership skills to promote a more liberal and peaceful

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<sup>3</sup> The description of the Wexner Israel Fellowship on the HKS website states: "At Harvard Kennedy School's Center for Public Leadership, fellows find a rich environment that is conducive to reflection and dialogue about Israel's policy challenges and the diverse leadership strategies that could address those challenges." Ex. E.

<sup>4</sup> According to *Minority Rights Group International*, the Bedouin people "are an indigenous people of the Negev desert in southern Israel, referred to by themselves as the Naqab .... They mainly identify as Palestinian Arabs but use the term Bedouin to refer to their nomadic way of life." <https://minorityrights.org/minorities/bedouin/>

Israel. He believes in the two-state solution and ending Israel's occupation of Palestine. Student 2 identifies as Jewish and Israeli.

*Student 3* worked as a lawyer and later in the television industry in both Israel and the United States before matriculating at HKS. He chose to pursue an MC/MPA to acquire skills to publicly advocate for a more representative democracy in Israel. He hopes to revive the Israeli peace camp upon his return to Israel. He believes strongly in Israel as the homeland of the Jewish people, and he has advocated against Israel's occupation of Palestine. Student 3 identifies as Israeli and secularly Jewish.

## **VII. Summary of Facts**

### **The Students' pre-course interactions with Professor Ganz**

Student 1 met with Professor Ganz on three occasions prior to the start of the Course, including once for dinner. Student 2 joined for the final two meetings. Student 1 shared documents with Professor Ganz outlining, in part, the goals of the Kumzitz, the organization he hoped to start upon his return to Israel. Ex. F. The documents articulated a goal of the organization as “ensur[ing] the resilience of Israel as the State of the Jewish People based on equality for all its citizens, substantive democracy, and economic sustainability, in accordance with the scroll of independence.” Ex. F. Students 1 and 2 aimed to build a new narrative for Israel. They reported that Professor Ganz supported the project in their meetings and was excited about their ideas. Although Professor Ganz generally recalled meeting with Students 1 and 2, and receiving documents from Student 1, he did not recall the documents' specific content. He understood from their meetings, however, that Students 1 and 2 were “critics of the Netanyahu regime” in Israel and aimed to find “constructive ways to deal with that.” Professor Ganz considered their interests generally to be aligned with the learning goals of the Course.

Students 1 and 2 wanted to enroll in the Course in spring 2023, but neither had the bidding points necessary to register.<sup>5</sup> Both men asked Professor Ganz to make an exception and enroll them in the Course, which Professor Ganz did. Ex. G. Student 3 had sufficient bidding points and registered for the Course independently.

Student 3 did not have direct contact with Professor Ganz prior to the start of the Course, although he took Professor Ganz's public narrative program during summer 2022.

### **First weekend: February 24-26**

During the first weekend of the Course, students formed organizing teams, within which they designed an organizing project based on their shared values. Each team then drafted a statement of purpose and shared it with the class. They also crafted an organizing chant to represent their

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<sup>5</sup> HKS uses a system for class registration in which students have to use “bidding points” in order to register for over-enrolled courses. Students are assigned a certain number of bidding points at the beginning of each academic year based on their anticipated graduation year and program.

cause. The 116-person class was divided into 27 organizing teams of between three and five students.

The Students enrolled in the Course with the goal of working with one another on their shared goal of promoting democracy in Israel, as Student 1 had articulated in his documents. Ex. F. During the first weekend, they formed a team and drafted their statement of shared purpose. I reviewed recordings of the class, in which the Students described their purpose as “organizing a growing majority of Israelis, that act in harmony, building on a shared ethos of Israel as a liberal-Jewish democracy, based on our mixed heritage and identities, being a cultural, economical, and security lighthouse.”<sup>6</sup> Professor Ganz reported that the Students’ purpose prompted an “immediate reaction” in the class.<sup>7</sup> He stated that following the Students’ presentation of their topic, approximately five or six students in the class who identify as Muslim or are from the Middle East, complained to him about the Students’ shared purpose and their use of the term “Jewish democracy.” He described the students’ complaints to me as follows:

What was offensive to the other students was this idea of Jewish democracy and the fact that it was an ethnically-defined democracy,<sup>8</sup> and it had been governing Palestinians since 1967 in an occupation which is anything but democratic. It was the notion that there is this democracy, so what [the Students] were interested in doing was restoring it. From the perspective of a lot of other students, that wasn’t the case.

Two teaching fellows, both of whom also had personal or political connections to the Middle East, expressed similar concerns about the topic. In response to their concerns, and in the hopes of avoiding a class debate about Israel and Palestine, Professor Ganz asked the Students to meet with him to discuss their description of their project. His decision to meet with the Students and advise them to change their purpose was made in large part due to his belief that he needed to provide a learning environment that would not be offensive for Muslim students and/or students with connections to the Middle East who objected to the Students’ purpose for personal or political reasons.

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<sup>6</sup> Due to privacy laws, the recordings quoted throughout the Report are not attached as exhibits.

<sup>7</sup> In the recording of the class, the only visible reaction appears to be other students clapping, as they did for every group, when the Students finished presenting their shared purpose. The entire class, however, was not visible on camera.

<sup>8</sup> An article by Yoav Peled, titled “Ethnic Democracy” and published in *The Wiley Blackwell Encyclopedia of Race, Ethnicity, and Nationalism*, defines the term: “Ethnic democracy is an analytic model meant to describe a form of state that combines majoritarian electoral procedures and respect for the rule of law and individual citizenship rights with the institutionalized dominance of a majority ethnic group over a society. Ethnic democracy consists of two incompatible constitutional principles: liberal democracy, which mandates equal protection of all citizens, and ethnonationalism, which privileges the core ethnic group. Critics of the model have pointed out that the tension between these two contradictory principles causes inherent instability in this form of state.”

## The Students' mid-week communications with Professor Ganz and Mr. Grandone

### *Meeting with Professor Ganz*

On Monday, February 27, 2023, Professor Ganz requested that the Students meet with him in his office. They met for between two and three hours to discuss the Students' purpose for their organizing project. Professor Ganz instructed the Students to change their project purpose, specifically by removing the phrase "liberal-Jewish democracy" as a descriptor for Israel. The Students reported that Professor Ganz expressed that their purpose did not create a safe space for other students in the class. The Students also reported that they asked whether anyone had complained about their shared purpose, and that Professor Ganz declined to answer.

The Students reported that they offered to revise their statement from "liberal-Jewish democracy" to "liberal democracy in the Jewish homeland," but that Professor Ganz did not accept the revision, as the word "Jewish" was problematic in this context. Professor Ganz did not recall the Students' making this offer to revise; he reported that they may have suggested this, but he did not recall their being open to changing the wording of their purpose.

According to the Students, Professor Ganz also compared the idea of "Jewish democracy" to white supremacy, stating that designing an organizing project to promote Jewish democracy was akin to a project promoting white supremacy, and that neither would be acceptable in the Course. Professor Ganz acknowledged that he made a comparison between the Students' purpose and Christian white supremacy in an effort to demonstrate that their claim to "Jewish democracy" was "contradictory." He explained, "I was trying to ask them to find the generosity to be respectful of the fact that there are other students who feel very strongly about this for whom ['Jewish democracy'] sounds like 'white racist' would sound like to others."<sup>9</sup>

The Students stated that other groups similarly had shared topics that were potentially controversial, such as one group's project advocating for LGBTQ rights, which the Students asserted could be offensive to those with strict religious beliefs (although it certainly did not offend them). Professor Ganz acknowledges that in his years teaching the Course, students have organized around politically charged topics which may have offended some class members.

The Students also asked Professor Ganz why their project was any different from promoting democracy in other countries with official religions. For instance, they stated that one student in the course was organizing around democracy in Tunisia, where Islam is the national religion. Israel, by contrast, does not have an official religion. In response, Professor Ganz clarified that "Jewish democracy" is problematic because Judaism is an ethno-religion, unlike most other religions, and therefore only includes members of a specific ethnic group in its democracy. In our interview, Professor Ganz explained further:

There's a difference, I think, in the experience of a religiously affiliated government and a racially distinguished government. What's the source of the offense is the

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<sup>9</sup> In our interview, Professor Ganz also independently stated that the Students' description of Israel as a Jewish democracy, from the perspective of many of those in the region, was similar to "talking about a white supremacist state."

ethno-religious claims because it consigns others to second-class status. I don't think those claims are made in the world today, except [Prime Minister] Modi makes them in India.

Students 1 and 3 reported that during their meeting, Student 1 asked Professor Ganz whether he would prefer it if the Students withdrew from the Course, and Professor Ganz acknowledged that he would. Student 2 did not recall this exchange. Professor Ganz also did not recall Student 1 asking this (although he acknowledged that asking this question would be characteristic of Student 1) and denied stating that he wanted the Students to withdraw.

The Students reported that after hours of back-and-forth conversation, the meeting concluded with Professor Ganz telling them once again to find a new purpose for their organizing project. Professor Ganz reported that he does not recall reaching any resolution with the Students by the end of the meeting.

Following the meeting, the Students met briefly amongst themselves and decided collectively that they would not change their purpose.

*Email communications between the Parties: March 2-3, 2023*

On Thursday, March 2, 2023, Professor Ganz emailed the Students to report that their statement of purpose was "not acceptable going forward." Ex. H. He instructed them to revise their purpose and resubmit it that evening "so as to facilitate everyone's learning in the class, including [their] own." Ex. H. Student 1 responded to Professor Ganz twice to request clarification on how he wanted them to change their purpose while maintaining their shared goal. Student 1 asked, "What exactly is the root of the problem in our current purpose and what would you like it to be in order for us to keep the subject?" Ex. H. Professor Ganz responded: "[T]ake a look at what I've written. I tried to be as clear as possible." Ex. H. He also recommended that they meet with their teaching fellow, Mr. Grandone. Student 1 emailed twice again to ask for further clarification. Ex. H.

That afternoon, the Students met with Mr. Grandone to discuss their progress, as they were required to do for the Course.

Following their meeting with Mr. Grandone, Student 2 responded to Professor Ganz once more requesting clarification. Professor Ganz replied, explaining that their purpose was offensive to several of their classmates:

To be as direct as I can be the fact is that many people enrolled in the class find the term "Jewish democracy" deeply offensive because it limits membership in a political community to those who share a specific ethno-religious identity – whereas democracy is based on the equal worth of each person, regardless of race, ethnicity, and religion. The claim to democracy can be particularly offensive when one people has been dominating now 5 million other people whom it denies any political voice since 1967.

Ex. H.<sup>10</sup>

Professor Ganz ended the email, “I cannot permit [a debate of the question of ‘Jewish democracy’] to claim the very limited time and space in a class in which 116 students are enrolled to learn to practice organizing. Please find a way to describe your organizing project in terms that are respectful of others in the class.” Ex. H.

Student 3 responded on behalf of the Students and asked Professor Ganz to reconsider. In Student 3’s email, the Students defended their identities as Jewish Israelis and emphasized their belief in the idea of Jewish democracy in Israel: “As you know, Israel identifies as a Jewish and democratic state and, for many Israelis like us, the idea of Jewish democracy is not just an idea. It is deeply woven within our identities as Israelis and as Jews. It is part of who we are as people.” Ex. H. They asserted that other democratic countries “embrace one particular identity – whether it be ethnicity, nationality, linguistics or religion over others,” and they linked a Pew Research article about countries that favor specific religions. Ex. H. They also noted that Professor Ganz had acknowledged during their meeting that he had “never told students in any class that they could not present their work, for any reason.”<sup>11</sup> They further wrote:

In any event, academic freedom is not served by silencing ideas – or people from unpopular countries – simply because some students may be uncomfortable with them. This is a class that is focused on teaching individuals how to mobilize and organize individuals around ideas in order to create cohesive movements that can impact a society on multiple levels. The description we developed is not disrespectful or harmful to any student and the words we use are found in Israel’s Declaration of Independence.

Ex. H.

The Students also asked if Professor Ganz would bar students from organizing around Black Lives Matter, as others could construe it as excluding other identities “that also face persecution and

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<sup>10</sup> The Students believe that Israel’s democratic system of government needs improvement, particularly bettering minority representation in Israeli politics. This is what the Students sought to explore during the Course, and around which they planned to organize upon their return to Israel. They rejected, however, the notion that Israel was not, at its heart, a democracy.

<sup>11</sup> In his reply email, Professor Ganz did not respond to the Students’ contention that he admitted during their meeting that he had never asked a group to change their purpose. In our interview, Professor Ganz stated that he has, on several occasions, advised students to change their statements of purpose for various reasons, typically logistical ones. When I asked whether he has requested that groups change their purpose due to polarizing topics, Professor Ganz explained that “most students avoid polarizing topics because they don’t want to offend other students.” Professor Ganz acknowledged, nonetheless, that students had organized around what could be considered polarizing issues such as abortion and LGBTQ+ rights.

discrimination who don't identify as Black[.]”<sup>12</sup> Ex. H. They concluded the email by informing Professor Ganz that they planned to present their original purpose in class the coming weekend.

In response, Professor Ganz expressed disappointment that the Students refused to accommodate other members of the class by changing their shared purpose: “It’s unfortunate that you choose to ignore the provocative nature of your claims – not about your own identity, but about the identity of others who do not share your unique ethno-religious identity.” Ex. H. He asserted that, while it was their choice not to change their purpose, they would be responsible for the “consequences” of their decision. Ex. H.

On the morning of Friday, March 3, 2023, Student 1 replied and asked Professor Ganz what he had meant by “consequences.” Ex. H. He also asked why Professor Ganz was privileging the feelings of other students over the feelings of the Israeli Students. Ex. H. Professor Ganz responded shortly before the start of class that day, stating, “With respect to consequences I can only speak to fulfillment of course requirements. You may also want to consider how responsive others may be to your approach.” Ex. H.

#### *Meeting with Mr. Grandone*

Shortly before the start of class on Friday, March 3, 2023, Mr. Grandone emailed the Students and asked them to meet with him because he had a potential solution. Ex. I. During their meeting, Mr. Grandone encouraged the Students to change their purpose by removing both the terms “liberal-Jewish democracy” and “security lighthouse” in reference to Israel.<sup>13</sup> The Students’ presentation of their purpose to the class the previous weekend had raised questions for Mr. Grandone, he said, as he had been unsure what they meant by these terms. In light of other students and teaching fellows in the class complaining to Professor Ganz, however, Mr. Grandone believed that the terms could be problematic due to the Israeli government’s treatment of Palestinians. When he suggested that the Students alter their purpose, they again refused to do so and stated that they would present it as planned. Student 1 reported that he asked Mr. Grandone whether they would be dismissed from the class for maintaining their original purpose, and that Mr. Grandone responded that they would not.

#### **Second weekend: March 3-5**

On Saturday, March 4, 2023, the second day of the second weekend of the course, the Students presented their purpose and project to their small group of 15 to 20 students. According to the

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<sup>12</sup> In our interview, Professor Ganz clarified that Black Lives Matter would be problematic if it asserted that Black lives matter while white lives do not, but the organization does not make this assertion. He argued that the Students’ comparison between their purpose and the example of Black Lives Matter was therefore decontextualized. The Students noted that they did not personally object to the Black Lives Matter efforts.

<sup>13</sup> The Students presented conflicting or unclear accounts of when Mr. Grandone encouraged them to remove these terms from their purpose. Student 1 reported that Mr. Grandone advised them to change their purpose during their earlier meeting on March 2, while Students 2 and 3 said they believed Mr. Grandone did so during this March 3 meeting shortly before class. Mr. Grandone was unclear in his account.

Students, the other students in the group appeared engaged, and their presentation received praise.<sup>14</sup>

*Fishbowl exercise*

On Sunday, March 5, 2023, the final day of the course, two teaching fellows, Teaching Fellow 1 and Teaching Fellow 2, conducted a “fishbowl” activity in which they performed a role play in front of the class. The role play was intended to demonstrate a weak and a strong example of how to encourage someone to commit to attending an organizing event. In their examples, Teaching Fellow 2 demonstrated asking Teaching Fellow 1 to attend a vigil for Palestinian solidarity that evening. In the role play, Teaching Fellow 2 stated, “I just heard about, actually, this event happening later today that’s being hosted by the Palestine solidarity committee.” She later said, “I think there’s a great opportunity later tonight, at 7:00 p.m. at the Memorial Church in Harvard Yard .... I think it’s a vigil for Palestinians.” She proceeded to encourage Teaching Fellow 1 to attend the vigil and to bring friends along.

Teaching Fellows 1 and 2 designed the fishbowl activity themselves and chose the vigil as their example. Professor Ganz became aware that they would use the vigil as an example shortly before the role play began, and he did not take issue with their choice of topic. There was a vigil at Harvard University that evening to honor lost Palestinian lives, and Professor Ganz understood that the teaching fellows likely chose the topic of the role play because the vigil was an upcoming University event, and he and the teaching fellows typically strive to use real-life examples in class demonstrations. Ex. J.

*Remarks made by a student following the fishbowl exercise*

Following the fishbowl activity, Professor Ganz solicited feedback from the class. Several students shared feedback, including a student who said she believed Teaching Fellow 2’s requests for Teaching Fellow 1’s commitment in the role play lacked a sense of connection. She shared that the vigil was, in fact, taking place on campus that evening: “The vigil is about 63 Palestinians who were killed by Israel since the beginning of 2023...and the violence, the raids that have been happening in the past few months.” She asked how “we can find more connection and values” in making an ask, rather than simply pushing people to attend an event.

Professor Ganz responded to the student’s feedback. He clarified that the goal of making an ask, as demonstrated in the role play, was to convince someone to attend an organizing event for a cause they already care about, not to convince them to care about a cause in the first place. In his response, Professor Ganz did not comment on the student’s remarks about the vigil itself or the Palestinian deaths.

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<sup>14</sup> The Students allege that Professor Ganz also provided positive feedback on their presentation, but Professor Ganz does not recall witnessing their presentation at all (although he acknowledges that he may have and just does not remember doing so). Mr. Grandone, who was present, reported that the other students in the group provided both positive feedback and suggestions for improvement in the debrief following the Students’ presentation, and none of the students in the group voiced concerns about their purpose.

*Linked narrative presentation*

Later in the class on March 5, 2023, one organizing team was selected to present their project to the class, and four students were selected to individually present “linked narratives.” The teaching fellows chose who would present linked narratives by evaluating students using score cards and selecting those with the strongest presentations. None of the Israeli Students were chosen to present. The student who made the above remarks following the fishbowl exercise, however, was one of the four chosen for the linked narrative presentation. She began her presentation with a story about a person who had been volunteering in Turkey to help with earthquake relief, and who, upon returning home to Huwara, a village in the West Bank, was killed by Israeli settlers during an attack. The student specifically stated,

Over 400 [Israeli] settlers a few days ago attacked the place... They burnt homes and cars, wounded over 300 people. Nobody stopped the raids of 400 people, of an entire village. Actually, a top Israeli official said, “The Palestinian village of Huwara should be wiped out. The State needs to do it, not private citizens.” So now the Israeli State is deciding, yet again, who can live and who can die. They’re taking away any sense of safety people might feel, even at home.

The student then linked this story to her experience living under dictatorship in Tunisia.

One requirement of the linked narrative presentation was to include an ask at the end of the presentation. As her ask, the student shared that she had arranged to have 20 keffiyehs<sup>15</sup> delivered to the classroom, and she invited her audience to wear them during the class photo if they wished to “show solidarity tonight with Palestine.” She also stated that, if anyone wanted to learn “more about what apartheid means,” they could attend the vigil for Palestinian solidarity that evening.

*The Students’ request to respond*

During a break towards the end of class on March 5, 2023, after the fishbowl exercise and the comments about Huwara, the Students approached Professor Ganz and asked to respond to what they perceived as the anti-Israel rhetoric voiced during class that day. They reported that they wanted time to create a dialogue and correct the student’s statements about the raids in Huwara, as they believed that she made false or misleading claims that a Palestinian was killed in the raids. They perceived the student’s comments implied wrongdoing on the part of Israelis in general rather than the Israeli government and that the commentary reflected anti-Israel rhetoric. Professor Ganz denied the Students’ request and informed them that his class was not the correct venue in which to host a debate on Israel and Palestine. He told the Students that if they wanted to debate the topic, they could do so outside of class. The Students reported that Professor Ganz also stated words to the effect of, “You’ve caused enough problems already”; Professor Ganz did not recall stating this but acknowledged that he may have said words to this effect.

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<sup>15</sup> A keffiyeh is a traditional Middle Eastern scarf worn as a headdress.

### *Class photo with keffiyehs*

On March 5, 2023, at the end of the final class session of the Course, the students, teaching fellows, and Professor Ganz gathered for a class photo. Ex. K. Several students and some teaching fellows, including Mr. Grandone, wore the keffiyehs that the student offered as a show of Palestinian solidarity. Ex. K. Professor Ganz did not wear a keffiyeh in the photo. Ex. K. The Students, affronted by what they perceived as Professor Ganz's preferential treatment of the Palestinian voices and cause, chose not to participate in the photo and left the class before it was taken.

Neither Professor Ganz nor any of the teaching fellows distributed the class photo to the students in the Course. On May 12, 2023, however, Emily Lin, Program Director of the Practicing Democracy Project at HKS, emailed a newsletter on behalf of Professor Ganz titled, "If not now, when? Update Your Information with the Practicing Democracy Project," and included the class photo from the Course as the banner photo of the newsletter. Ex. L. Student 3 believes that Ms. Lin sent the newsletter to anyone who had ever been enrolled in one of Professor Ganz's classes, as the newsletter states, "Whether you are a course alum, a workshop participant, or just a 'friend of Marshall' – we are grateful to be in touch with you and have you as part of the Practicing Democracy project community." Ex. L.

### *The Students' grades*

Students 1 and 3 believe that Professor Ganz gave them lower grades than they deserved on their final paper and in the Course because they would not change their topic, as he had insisted.

Academic performance in the Course was measured as follows: The teaching fellows read and provided preliminary grades, according to a rubric, on each of their assigned students' final paper and overall performance in the Course. Professor Ganz then reviewed the papers, the teaching fellows' comments, and each grade the teaching fellows proposed. Professor Ganz ultimately decided students' grades.

The Students each completed their final reflection papers for the Course and received comments from Mr. Grandone, as he was their assigned teaching fellow. Exs. M, N, and O. Student 3 also received comments under Teaching Fellow 1's name, which twice mentioned his participation in the IDF, despite the fact that Student 3 had not discussed his role in the IDF during the Course.<sup>16</sup> Ex. M.

Professor Ganz also provided comments on Student 1's final reflection paper, expressing that he agreed with Mr. Grandone's comments. Ex. N.

Students 1 and 3 each received a B on their final papers and a B+ in the Course. Exs. M and N. Student 2 received a B+ on his final paper and an A- in the Course. Ex. O. I have reviewed the Students' transcripts and find that both Student 1's and Student 2's grades in the Course were

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<sup>16</sup> Student 3 suspected that Teaching Fellow 1's comments – which he reported were in fact made by Professor Ganz – indicated that Professor Ganz had confused him with Student 2, who *had* discussed his participation in the IDF during the Course. Student 3 speculated that Professor Ganz may have intended to give him the grade (A-) that Student 2 received.

relatively aligned with their grades in other courses at HKS – Student 1 had received a B in a prior course, while Student 2 had received an A- in two prior courses. Student 3’s grade, however, was lower than the grades he received in all other courses at HKS.

Students 1 and 3 each emailed Mr. Grandone to ask about the rationale for their grades. Ex. P. Mr. Grandone replied to each of them and copied Professor Ganz so he could respond to their inquiries. Ex. P. Professor Ganz did not provide either student with an explanation for their grades, however, because this investigation had already commenced.

#### *MLD-378 Course*

The Students had intended to enroll in the second module of the Course, MLD-378, titled Organizing: People, Power and Change Practicum. While MLD-377 focused on campaign design, MLD-378 focused on campaign leadership. Students 1 and 3 were registered for the second module, while Student 2 had not yet registered but intended to do so. Ultimately, however, the Students each decided not to take MLD-378 due to the events described herein.

#### *Impact on the Students*

The Students report that the incidents in the Course with Professor Ganz had the following impact on them:

**Student 1** matriculated at HKS with the expectation that he would have the opportunity to discuss his ideas and vision for Israel: “[HKS is] a very diverse place. If we can’t think about democracy here, then where would we?” Upon meeting with Professor Ganz on February 27, 2023 and receiving Professor Ganz’s instruction to change his group’s shared purpose, however, Student 1 was “shocked” and felt that he had been subjected to antisemitism. Despite the inclusiveness he has witnessed at HKS, Student 1 believes that antisemitism is not taken as seriously at the School as other issues of discrimination and racism, even as it remains a pervasive problem in the United States. He expressed, “I’m a proud Israeli Jewish student in Harvard University, and I expect to be treated exactly like any other student.”

Student 1 also reported that the impact of Professor Ganz’s conduct has extended beyond his decision not to take the second module of the Course. He stated, “It’s much bigger than the influence on my learning path here. It’s way more than that.” He also withdrew from the second module of the Course because he felt that he was not welcome: “I won’t push myself [in]to places I’m unwanted.”

**Student 2** expressed that during the second weekend of the Course, he and the other Students “felt uncomfortable the whole time, that we felt like we were really not legitimate to be there,” and felt that they were “silenced” by Professor Ganz. Student 2 further explained the impact of Professor Ganz’s conduct on his experience in the Course and at HKS:

I felt that my learning experience was extremely hindered. I’m not thinking of, ‘How did I promote and engage in the best way,’ which is the goal of why I’m here. Instead of engaging in a better way, every spare moment that we had, we were thinking and sharing with each other, and I was writing things that I felt in those

moments, how does it feel to be a person that is being canceled and the professor is going against you. It was definitely interfering with the learning experience and ability.

Student 2 planned to take the MLD-378 course, and he designed his class schedule for the second half of the semester to accommodate the course dates and times. As a result, Student 2 opted not to take other courses that he was interested in if they conflicted with the second module.

On April 24, 2023, Student 2 attended a panel titled, “How Civil Society Can Address Public Challenges.” Professor Ganz was one of the four speakers on the panel. Although he was aware beforehand that Professor Ganz would be on the panel, Student 2 expressed, “I actually really felt uncomfortable. Seeing him there, him seeing me. Kind of like feeling that I couldn’t be [as] present as I would want to with the other professors in the room in a topic that I find to be important.”

**Student 3** suffered from kidney problems during the Course, for which he eventually sought medical treatment. Although he does not blame Professor Ganz for the onset of his health issues, Student 3 reported that his doctor observed that he appeared stressed and stated, “All your symptoms are indicating that you’re in a lot of stress.” The situation had put Student 3 under emotional stress, as the Course felt like an “unsafe environment.”

Student 3 expressed, “I’m so disappointed that I had to experience this before I leave, instead of having the perfect year.” The incident with Professor Ganz “kind of ruined” his otherwise positive experience at HKS. Student 3 emphasized that Professor Ganz had said during their February 27, 2023 meeting that the Course was supposed to be a “safe space” for students. Student 3 explained, however, that he had not felt safe in the Course: “I didn’t feel that I was in a safe place, and I think it’s a huge miss for me. I really wanted to take [the second module]. I didn’t get an opportunity that I should’ve had because of how things played out. And I didn’t get a full experience of the [MLD-377] Course either.” Student 3 felt that Professor Ganz had created an environment in the class in which the Students’ views were unwelcome.

## **VIII. Preliminary Findings and Preliminary Recommendations**

### **A. Did Professor Ganz require the Students to change their statement of purpose or topic description for their class project?**

#### **1. Preliminary Finding**

Professor Ganz alleges that he did not *require* the Students to change their purpose or topic, as evidenced by the fact that the Students, did, indeed, present their original purpose. The evidence, however, compels the finding that the Students held firm despite Professor Ganz’s directive that they change their purpose. It is undisputed that:

- When the Parties met on February 27, 2023, Professor Ganz told the Students they could not describe Israel as a “liberal-Jewish democracy” because Israel is not democratic.
- In a March 2, 2023 email, Professor Ganz wrote that the Students’ statement of purpose was “not acceptable going forward,” and he instructed them to revise it. Ex. H. In a later email that night, Professor Ganz wrote, “I cannot permit [a debate of the question of ‘Jewish democracy’] to claim the very limited time and space in a class in which 116

students are enrolled to learn to practice organizing. Please find a way to describe your organizing project in terms that are respectful of others in the class.” Ex. H.

- When the Students told Professor Ganz that they would not change their purpose, he told them they would be responsible for the “consequences” of their decision, and later clarified that by consequences, he meant “fulfillment of course requirements.”

The words Professor Ganz used in his emails about this topic—that the Students’ topic was “not acceptable”; that he could not “permit” a debate about Jewish democracy to take class time;<sup>17</sup> that the Students needed to find another way to describe their topic so as not to offend their classmates; and the threat that the students would be responsible for the consequences of not complying—leave no doubt that he directed the Students to change their topic.

## 2. Policy Violation Recommendation

### (a) The Statements’ Principle of Freedom of Speech

Professor Ganz credibly stated that he directed the Students to change their statement of purpose and topic description in consideration of the students and teaching fellows in the class who had objected to the premise of Israel as a Jewish democracy. While I do not doubt that Professor Ganz was motivated by real concern for students and teaching fellows he viewed as members of a group oppressed by Israel, and a desire to avoid disruptions to the Course, his requirement that the Students change their purpose runs afoul of the Statements’ principles of free speech and free exchange of ideas.

The Statements are replete with declarations about the importance of freedom of speech and expression. For example, the HKS Statement provides:

- The Harvard Kennedy School is committed to advancing the public interest by training enlightened leaders and solving public problems through world class scholarship and active engagement with practitioners and decision makers. This commitment, we believe, includes training our students to lead effectively across lines of difference. That mission requires that our faculty, students, and staff be exposed to and understand a broad array of ideas, insights, and cultures. One crucial element involves attracting superlative people from diverse backgrounds and traditions who vary by their race and ethnicity, gender, gender identity, sexual orientation, nationality, religion, physical and mental abilities, political philosophy, and intellectual focus. A second essential ingredient is the creation and maintenance of an atmosphere that welcomes new ideas -- even unpopular and controversial ones -- and encourages an effective and active exchange of views in an environment of mutual respect.
- The School will also develop a curriculum that deals with issues of diversity and encourages students and faculty to talk openly and effectively about difficult and highly charged issues. The School will provide professional support to faculty on how to teach these issues effectively. It will emphasize the powerful benefit of exchange of ideas. The School will seek to enlist students in efforts to make classrooms and classmates more

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<sup>17</sup> There is no evidence that the Students intended to *debate* whether Israel is a democracy in the Jewish homeland. According to Professor Ganz, certain teaching fellows sought to debate this issue, which Professor Ganz rightfully stopped.

welcoming of the unique ideas and insights that students from different backgrounds and perspectives bring.

Ex. B.

The University Statement memorializes Harvard's community values, including:

- Respect for the rights, differences, and dignity of others.
- [F]ree expression, free inquiry, intellectual honesty, respect for the dignity of others, and openness to constructive change.
- [F]reedom of speech and academic freedom.

Ex. B.

The Department of Education's Office of Civil Rights ("OCR") offers guidance on the difference between speech that violates a civil rights statute and speech that some may find offensive: "OCR has consistently maintained that the statutes it enforces are intended to protect students from invidious discrimination, not to regulate the content of speech."<sup>18</sup> Ex. Q.

The Course was meant to teach students how to organize others to participate in a topic close to their hearts; the Students' articulated purpose did just this, as they explained to Professor Ganz in their March 2, 2023 email. Ex. H. The Students, who view Israel as the home of the Jewish people, believe that Israel's right to exist as such should not be infringed upon; they also believe, however, that Israel must provide its Arab and Muslim citizens better access to and participation in the state's democratic process. Although Professor Ganz describes the Students' topic as a provocative one, their opinion is consistent with, for example, the editorial position of the *New York Times*. Ex. R. On April 1, 2023, the Editorial Board published an article, "The Fight for Israel's Democracy Continues," arguing that "Israel's identity as a *Jewish and democratic state*," has been threatened by Prime Minister Netanyahu's proposed overhaul of the judiciary, which could "relegate Arab citizens to a second-class status." Ex. R., (emphasis added).

The First Amendment generally permits professors wide latitude to limit student speech to avoid controversy within the academic environment, as long as the restriction is limited to legitimate pedagogical concerns. For example, Professor Ganz could, perhaps, limit students from making hateful or inflammatory statements about Israel or Palestine that are unsupported by authoritative sources. There is no pedagogical support, however, for Professor Ganz's directive that the Students find another way to articulate their purpose—namely by not describing Israel as a Jewish democracy. His view that the Students' topic was deliberately provocative is not widely supported

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<sup>18</sup> As a private institution, Harvard is not subject to the requirements of the First Amendment. Nonetheless, the rights enunciated in the Statements are consistent with spirit of the First Amendment.

by authoritative sources, and in fact, many authoritative sources share the Students' view.<sup>19</sup> Likewise, without doubt, many authoritative voices disagree with the Students' position.<sup>20</sup>

Reasonable people can differ as to whether the Jewish state of Israel is, or ever was, a democracy. To declare that the topic itself is unworthy of academic investigation, and that the Students' purpose was a deliberate provocation, however, is inconsistent with the principle of free speech. Professor Ganz acknowledges that students in the Course have sought to organize around politically charged issues in the past, including ones that others in the Course might find offensive. Yet, he sought to silence the speech of Jewish Israeli students about a topic that he viewed as illegitimate, no doubt influenced by the Arab and Muslim students and teaching fellows who complained. Professor Ganz's instruction that the Students change their topic is inconsistent with the free speech principles set forth in the Statements. Exs. B and H.

### **(b) Discrimination and Harassment**

The HKS Statement provides, “[a]ll members of the Kennedy School community are entitled to work in an environment that is free from threat, harassment, abuse, or discrimination.” Ex. B. The University Statement provides that “intense personal harassment of such a character as to amount to grave disrespect for the dignity of others be regarded as an unacceptable violation of the personal rights on which the University is based.” Ex. B.

The Statements do not define *threat, harassment, abuse, or discrimination*, and so I have analyzed the Students' allegations using guidance from Title VI of the Civil Rights Act of 1964 (“Title VI” or the “Act”). The Act provides that no one may “be excluded participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance” on the basis of race, color, or national origin. Although Title VI does not specifically protect against religious discrimination, it extends to those who experience discrimination, including harassment, based on their actual or perceived: (i) shared ancestry or ethnic characteristics; or (ii) citizenship or residency in a country with a dominant religion or distinct religious identity. Exs. U, V, and W. Likewise, the Act protects individuals from discrimination based on the country, world region, or place where a person or their ancestors come from, including membership in a religion that may be perceived to exhibit such characteristics, such as Jewish individuals. Exs. U and X.

Title VI is not violated simply because speech or conduct runs counter to what is proscribed by the Act. Rather, “the conduct must also be considered sufficiently serious to deny or limit a student's ability to participate in or benefit from the educational program.” Exs. Q and Y. Conduct

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<sup>19</sup> See, e.g. *The Washington Institute's* op-ed, “Israeli Public's Commitment to Democracy Shines as the Country Turns 75,” in which the authors (one of whom was a former special advisor to President Obama) wrote, “there is no way to preserve Israel as a Jewish democracy without addressing the Palestinian issue. Those Israelis who favor yielding land in the West Bank do so not just to maintain dignity for Palestinians, but to ensure that Israel can remain both Jewish and democratic.” Ex. S.

<sup>20</sup> See, e.g. Press Release by the United Nations, “With 2022 Deadliest Year in Israel-Palestine Conflict, Reversing Violent Trends Must Be International Priority, Middle East Coordinator Tells Security Council.” The press release quotes a Permanent Observer for the League of Arab States, who stated: “Israel claims to be the largest democracy in the Middle East, and yet it has regrettably committed all sorts of violations.” Ex. T.

can be harassing even if the offender does not intend harm, and even if the conduct is not directed at a specific target. Ex. Y.<sup>21</sup>

The evidence gathered in this investigation supports a finding that Professor Ganz treated the Students differently on the basis of their Israeli national origin and Jewish ethnicity and ancestry. He did so in the context of an educational program or activity (namely, the Course) without a legitimate, nondiscriminatory reason for doing so. These acts interfered with and limited the Students' ability to participate in and benefit from HKS's educational program. Silencing Jewish or Israeli students on the basis that speech about Israel could disrupt or divide a class runs counter to guidance provided by OCR, which uses the following as an example of conduct that could violate Title VI:

A university professor bars Jewish students from his seminar on the Middle East in the belief that their ties to Israel will polarize class discussion. A student complains to the dean, who affirms the decision and states his belief that Jewish students would feel uncomfortable in the class.

Ex. Z.

Professor Ganz did this when he instructed the Students not to use as a purpose anything that describes Israel as a "Jewish democracy," which he did only after complaints by Muslim and Arab students.

On May 25, 2023, the White House released its *U.S. National Strategy to Counter Antisemitism*, which similarly raised concerns about college students who are treated differently on campuses based on their actual or perceived views on Israel. Ex. AA.<sup>22</sup>

On college campuses, Jewish students, educators, and administrators have been derided, ostracized, and sometimes discriminated against because of their actual or perceived views on Israel. All students, educators, and administrators should feel safe and free from violence, harassment and intimidation on their campuses. Far too many do not have this sense of security because of their actual or perceived views on Israel.

Ex. AA.

Professor Ganz's treatment of the Students was inconsistent with guidance provided by OCR and the White House, namely that students should not be treated differently or harshly based on their views on Israel. Exs. Q. and AA. Professor Ganz's assertion that he would have taken the same action towards a non-Jewish American student who proposed the same purpose and topic is not material: OCR's guidance provides that "[c]onduct can be harassing even if the offender does not intend harm, and even if the conduct is not directed at a specific target." Exs. W and Y.

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<sup>21</sup> An institution does not violate Title VI if it takes immediate and appropriate steps to investigate an allegation of a violation of the Act; and, if an investigation reveals that harassment has created a hostile environment, the institution takes prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent its recurrence, and remedy its effects. Ex. X.

<sup>22</sup> The *National Strategy* guidance articulates a set of principles for combating antisemitism. It "does not supersede, modify, or direct an interpretation of any existing federal, state, or local statute, regulation or policy" and it does not "constitute binding guidance." Ex. AA.

Professor Ganz also favored the ethnic and political views of his Muslim and Arab students and teaching fellows over those of the Jewish Israeli Students.

- Professor Ganz directed the Students to change their project after students and teaching fellows who identified as Muslim and Arab complained about the Students' topic.
- Student 3 wrote to Professor Ganz: "As you know, Israel identifies as a Jewish and democratic state and, for many Israelis like us, the idea of Jewish democracy is not just an idea. It is deeply woven within our identities as Israelis and as Jews. It is part of who we are as people." Ex. H. In response, Professor Ganz admonished the Students for ignoring the "provocative nature" of their claims that Israel is a Jewish democracy. Ex. H. But see Ex. R and footnote 19. He also wrote that the matter was "not about [their] identity but about the identity of others who do not share [their] unique ethno-religious identity," and he threatened that the Students would be responsible for the "consequences" of their decision to pursue their topic. Ex. H.
- Professor Ganz did not intervene when he learned that his teaching fellows planned to conduct a role play demonstrating weak and powerful ways to organize people to attend a Palestinian solidarity vigil.<sup>23</sup> Nor should Professor Ganz have done so: such action would be inconsistent with his obligation to uphold the principles of free speech enunciated in the Statements. Yet, Professor Ganz's decisions to permit the teaching fellows to perform an exercise about Palestinian solidarity, however belatedly he learned of the topic, while seeking to silence the voices of the Students who sought to organize ways to improve Israel as a liberal Jewish democracy, suggests that he favored one ethnic and religious group over the other.
- There is no evidence that Professor Ganz knew that a student intended to share keffiyehs with classmates as part of her effort to organize on behalf of Palestinian solidarity. Nor should he have intervened following the student's organization, for the reasons described above. The bias arose not because Professor Ganz permitted this speech, but because he tried to silence the speech of the Students who sought to speak on behalf of their view of Israel as a Jewish democracy.

Professor Ganz's preferential treatment of the Arab and Muslim students, who he viewed as a group oppressed by Israel, and his attempts to silence the Israeli Students, is inconsistent with the Statements' expectations that students enjoy a learning environment free from bias.

Professor Ganz also denigrated the Students' identities as Israelis and Jews. He compared the Students' purpose to Christian white supremacy in an effort to demonstrate that their claim to "Jewish democracy" was "contradictory." He also said that for some, *Jewish democracy* sounds like what *white racist* would sound like to others. In our interview, Professor Ganz also separately stated that the Students' description of Israel as a Jewish democracy, from the perspective of many of those in the region, was similar to "talking about a white supremacist state." In his response, Professor Ganz wrote that he would not permit any student to organize around the topic of Judeo-Christian democracy, for the same reasons that he would not permit the Students to organize

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<sup>23</sup> Professor Ganz later wrote in his response that he did not know that the teaching fellows intended to do a role play that included an "ask" for others to participate in a vigil in support of Palestinian solidarity. In his interview, however, Professor Ganz stated about this matter, "[S]omebody may have told me just before what they were gonna do it about, but I mean, I neither selected that nor did I stop it. That's what they wanted to do. We try to find models that are as real as possible because then it's more of a real play than a role play."

around “Jewish democracy.” While Professor Ganz’s clarification is a more generous articulation of his concerns, I credit the Students’ account about how Professor Ganz likened their purpose to white supremacy, which he also did when I interviewed him.

The cumulative effect of these acts indeed created a hostile learning environment for the Students based on their Israeli nationality and Jewish ethnicity and ancestry, and effectively denied them the opportunities of a safe learning environment in the Course. Student 1 described the “shock[]” of being subjected to antisemitism. He came to HKS to further his goal of bettering Israeli democracy in the Jewish homeland, and was left feeling, “If we can’t think about democracy here, then where would we?” Student 1 expected to take the second module of the Course but withdrew because he felt unwelcome in Professor Ganz’s learning environment.

Student 2 felt silenced by Professor Ganz. He explained feeling uncomfortable and “really not legitimate” when attending the second weekend of the Course. He described his learning experience as “extremely hindered.” Student 2 acknowledged that he and his colleagues were distracted from wholly focusing on their project because “every spare moment [they] had” was consumed with thinking about Professor Ganz’s treatment of them; Student 2 and his colleagues spent an inordinate amount of time lamenting over their shared distress about the situation in which they found themselves. Student 2 reflected, “I was writing things that I felt in those moments, how does it feel to be a person that is being canceled and the professor is going against you. It was definitely interfering with the learning experience and ability.” Student 2 elected not to take module 2 for the reasons described herein. Dropping the class late in the semester limited the option of courses Student 2 could choose from to replace the second module.

During the Course and thereafter, Student 3 suffered health problems that his physician said were exacerbated by the stress he was under. He is disappointed that the emotional distress Professor Ganz caused resulted in him dropping the second module, which he had been eager to take. Professor Ganz, in Student 3’s opinion, created an “unsafe environment” in the Course and “kind of ruined” his experience at HKS.<sup>24</sup> Student 3 also remarked that he did not get the “full experience” of the Course.

**B. Did the three Students experience consequences, including harassment, directly or indirectly caused by Professor Ganz, as a result of presenting on their original topic to their small working group, including but not limited to the following allegations:**

There is insufficient evidence to find that the Students experienced consequences for presenting their original topic to their small working group with regards to sub-questions (a), (b), (c) and (e). There is sufficient evidence to find that the Students experienced consequences for presenting on their original topic with respect to part of sub-question (d). More specifically:

**(a) not having their project selected for presentation to the entire class on the last day of the module;**

The Students provided inconsistent accounts of the number of students who were selected to present in front of the entire class on the last day of the module.<sup>25</sup> Professor Ganz said that only

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<sup>24</sup> Student 3 clarified in his response that his experience at HKS was overwhelmingly positive, with the sole exception of his experience with Professor Ganz in the Course.

<sup>25</sup> Student 1 estimated that 70% of groups were selected to present, Student 2 estimated 50-60% of students presented, and Student 3 believed that about 15 students from the class presented.

four students were selected to present. In any event, a review of videos of the class show four students were selected to individually present “linked narratives”; Professor Ganz reported that, additionally, one organizing team of approximately five students was selected to present their project. Given that approximately nine students of a class of 116 were selected to present to the entire class, the evidence does not support an inference that the Students were excluded from presentation because they insisted on presenting their original topic. Likewise, Professor Ganz asserts—and there is no evidence to the contrary—that teaching fellows, not he, selected the student presenters.

**(b) the selection of “Palestinian identity” as the topic for a fishbowl session for the entire class;**

As noted in Sections VIII.A.2(a) and (b), HKS is committed to free expression and dialogue about difficult and charged issues. Professor Ganz did not select Palestinian solidarity as the topic of the fishbowl, nor, in the spirit of free expression, should he have intervened to stop the exercise once he learned of its occurrence.

**(c) the ensuing expression of anti-Israel remarks by a student within the class, including blaming Israelis for the Palestinians’ plight, and her invitation for students and teaching staff to demonstrate Palestinian support by posing for a class picture wearing keffiyehs;**

Professor Ganz did not know that a student intended to make statements about Israel killing Palestinians or the raids in Huwara. After she made these comments, Professor Ganz did not respond to what she alleged, nor could he have known at the time that the student’s characterization of what occurred may have been incorrect or misleading. Furthermore, the student did not disparage all Israelis in her response to the fishbowl activity, as the Students recalled, when she remarked that Israel had killed 63 Palestinians in 2023.

Likewise, the student did not disparage all Israelis in her linked narrative presentation. She criticized the settlers who raided Huwara, an event which the Students also viewed as tragic (one of the Students donated to an organization that provided aid to the victims of the raid).

For Professor Ganz to have ordered the student not to distribute the keffiyehs to the class would have run afoul of Harvard and HKS’s commitment to free speech and expression. Likewise, it would have been inappropriate for Professor Ganz to instruct students not to politically express themselves in the class photo. Notably, Professor Ganz did not wear a keffiyeh.

**(d) Professor Ganz’s rejection of the Israeli Students’ request to respond to the anti-Israel rhetoric and the manner of that rejection; and**

Professor Ganz did not know that a student intended to share what the Students view as anti-Israel sentiments. Regardless, I do not view the comments as anti-Israel, but rather targeted criticisms of the IDF and the settlers who raided Huwara. Professor Ganz did not display animus when he denied the Students a forum to correct what they perceived as inaccurate criticisms of Israel, since the Course was not the proper forum for such a discussion. How Professor Ganz articulated the rejection of this request, however, is evidence of continued bias against the Students. I credit that Professor Ganz told the Students that they had “caused enough problems already,” as they allege, and as Professor Ganz does not deny. Professor Ganz’s comment most likely reflects his continued resentment that the Students refused to change their topic on Jewish democracy in Israel, as he had instructed them to do.

**(e) any other remarks or conduct on the basis of the three Students' Israeli national origin and Jewish identity that limited the ability of the three Students to participate fully in the class.**

Finally, the Students allege that Professor Ganz gave them lower grades than they deserved on their final paper and in the Course because they would not change their topic. There is insufficient information to support such a finding. Students 1 and 2 received a B+ and an A-, respectively, which were relatively aligned with their grades in other courses at HKS. Student 3's grade, a B+, was lower than the grades he received in all other courses at HKS. Nonetheless, I am not in a position to evaluate the quality of the Students' academic performance, and the comments Mr. Grandone and Professor Ganz provided appear to be academically legitimate critiques of the Students' work.

## **IX. Conclusion**

Based on the preponderance of the evidence standard, I find that it is more likely than not that Professor Ganz violated the HKS Statement of Rights and Responsibilities and the University-Wide Statement on Rights and Responsibilities with respect to Question 1 because his treatment of the Students ran counter to the policies' endorsement of the principles of free speech and prohibition against bias. I also find that there is sufficient evidence that Professor Ganz subjected the Students to bias with respect to Question 2, sub-question (d).

Based on the preponderance of the evidence standard, I find that there is insufficient evidence to find that Professor Ganz violated the HKS Statement of Rights and Responsibilities and the University-Wide Statement on Rights and Responsibilities with respect to Question 2, sub-questions (a), (b), (c), and (e) because the evidence suggests that Professor Ganz did not subject the Students to consequences based on their insistence on presenting their original purpose.